

Art Unit: 1648

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mark Deluca on April. 12, 2011 and Daniel Scolnick on April. 14, 2011.

The application has been amended as follows:

Claim 1 (current Amendment):

In line 3 after "pathogenic antigen," please delete "a cancer -associated antigen or an antigen linked to cells associated with autoimmune disease;"

In lines 5-9 after "encodes" please delete all citations before and after "Ox40"

In line 11 after "that" please delete "encode one or more immunmodulating proteins" and insert --- Ox40 ---

Canceled claim 4, 7, 10, 22-23, 25-26 and 33-34.

Claims 1-2, 5-6, 13-14 are allowed.

2. The following is an examiner's statement of reasons for allowance: Applicants' argument is persuasive to overcome the obvious prior art rejection. Ox40Ligand (Ox40L) was used in an immunogenic composition to potential Th1 type T cell cytotoxic effect via binding and activation of its receptor Ox40 prior to the current Application was filed; however, no prior art teaches or suggests using the receptor, i.e. Ox40 alone with a pathogenic antigen as an immunomodulating protein in an immunogenic composition. The claimed invention is an unexpected result showing that a DNA immunogenic composition comprising a nucleic acid molecule encoding Ox40 in combination of a nucleic acid molecular encoding a pathogenic antigen is able to potentiate Th2 type of immune response rather than Th1 type of immune response.

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3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BAO LI whose telephone number is (571)272-0904. The examiner can normally be reached on 6:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zachariah Lucas can be reached on 571-272-0905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BAO LI/

Primary Examiner, Art Unit 1648

April 15, 2011